

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Nora Chanko	Team: Squad #3	CCRB Case #: 201710093	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 12/05/2017 6:15 PM	Location of Incident: 189th Street and 73rd Avenue; 107 Precinct stationhouse	Precinct: 107	18 Mo. SOL 6/5/2019	EO SOL 6/5/2019	
Date/Time CV Reported Wed, 12/06/2017 6:29 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Wed, 12/06/2017 6:29 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Jeremy Brandenburg	02321	945523	GANG QS
2. DT3 Stephen Lalchan	6416	947149	GANG QS
3. DT3 Michael Obrien	810	946068	GANG QS
4. SGT Richard Mezzatesta	03513	930735	GANG QS
5. An officer			

Officer(s)	Allegation	Investigator Recommendation
A.SGT Richard Mezzatesta	Force: At 189th Street and 73rd Avenue in Queens, Sergeant Richard Mezzatesta pointed his gun at § 87(2)(b)	
B.DT3 Jeremy Brandenburg	Force: At 189th Street and 73rd Avenue in Queens, Detective Jeremy Brandenburg pointed his gun at § 87(2)(b)	
C.DT3 Jeremy Brandenburg	Force: At 189th Street and 73rd Avenue in Queens, Detective Jeremy Brandenburg pointed his gun at § 87(2)(b)	
D.DT3 Michael Obrien	Force: At 189th Street and 73rd Avenue in Queens, Detective Michael Obrien pointed his gun at § 87(2)(b)	
E.DT3 Michael Obrien	Force: At 189th Street and 73rd Avenue in Queens, Detective Michael Obrien pointed his gun at § 87(2)(b)	
F.DT3 Stephen Lalchan	Force: At 189th Street and 73rd Avenue in Queens, Detective Stephen Lalchan used physical force against § 87(2)(b)	
G.DT3 Michael Obrien	Force: At 189th Street and 73rd Avenue in Queens, Detective Michael Obrien used physical force against § 87(2)(b)	
H.DT3 Stephen Lalchan	Abuse: At 189th Street and 73rd Avenue in Queens, Detective Stephen Lalchan frisked § 87(2)(b)	
I.DT3 Michael Obrien	Abuse: At 189th Street and 73rd Avenue in Queens, Detective Michael Obrien frisked § 87(2)(b)	
J.DT3 Michael Obrien	Abuse: At 189th Street and 73rd Avenue in Queens, Detective Michael Obrien searched § 87(2)(b)	
K.DT3 Stephen Lalchan	Abuse: At 189th Street and 73rd Avenue in Queens, Detective Stephen Lalchan searched § 87(2)(b)	
L.DT3 Michael Obrien	Abuse: At 189th Street and 73rd Avenue in Queens, Detective Michael Obrien frisked § 87(2)(b)	
M.DT3 Michael Obrien	Abuse: At 189th Street and 73rd Avenue in Queens, Detective Michael Obrien searched § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
N.DT3 Stephen Lalchan	Discourtesy: At 189th Street and 73rd Avenue in Queens, Detective Stephen Lalchan spoke discourteously to § 87(2)(b)	
O.DT3 Michael Obrien	Discourtesy: At 189th Street and 73rd Avenue in Queens, Detective Michael Obrien spoke discourteously to § 87(2)(b)	
P.DT3 Michael Obrien	Discourtesy: At 189th Street and 73rd Avenue in Queens, Detective Michael Obrien spoke discourteously to § 87(2)(b)	
Q.DT3 Stephen Lalchan	Abuse: At 189th Street and 73rd Avenue in Queens, Detective Stephen Lalchan searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
R.DT3 Jeremy Brandenburg	Abuse: At 189th Street and 73rd Avenue in Queens, Detective Jeremy Brandenburg searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
S.SGT Richard Mezzatesta	Abuse: At 189th Street and 73rd Avenue in Queens, Sergeant Richard Mezzatesta searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
T.DT3 Michael Obrien	Abuse: At the 107th Precinct stationhouse, Detective Michael Obrien refused to provide his name to § 87(2)(b)	
U.SGT Richard Mezzatesta	Abuse: At the 107th Precinct stationhouse, Sergeant Richard Mezzatesta authorized a strip search of § 87(2)(b)	
V.SGT Richard Mezzatesta	Abuse: At the 107th Precinct stationhouse, Sergeant Richard Mezzatesta authorized a strip search of § 87(2)(b)	
W.DT3 Michael Obrien	Abuse: At the 107th Precinct stationhouse, Detective Michael Obrien refused to provide his name to § 87(2)(b)	
X.DT3 Stephen Lalchan	Abuse: At the 107th Precinct stationhouse, Detective Stephen Lalchan refused to provide his name to § 87(2)(b)	
Y.DT3 Stephen Lalchan	Discourtesy: At the 107th Precinct stationhouse, Detective Stephen Lalchan spoke discourteously to § 87(2)(b)	
Z. An officer	Abuse: At the 107th Precinct stationhouse, an officer damaged § 87(2)(b) and § 87(2)(b)'s property.	
2A. An officer	Abuse: At the 107th Precinct stationhouse, an officer searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	

Case Summary

§ 87(2)(b) and § 87(2)(b) filed this complaint in person at the CCRB on December 6, 2017.

At approximately 6:15 p.m. on December 5, 2017, § 87(2)(b) and § 87(2)(b) were in their vehicle parked on 189th Street and 73rd Avenue in Queens. Det. Michael Obrien, and Det. Stephen Lalchan of Queens South Gang Squad approached their vehicle. Shortly thereafter, Sgt. Richard Mezzatesta and Det. Jeremy Brandenburg, also of Queens South Gang Squad, also arrived on scene. Det. Brandenburg was investigating the brothers in an ongoing narcotics case, and § 87(2)(e), § 87(2)(f)

§ 87(2)(b). § 87(2)(b) alleged that Sgt. Mezzatesta and Det. Brandenburg approached the vehicle with their guns pointed at him, while § 87(2)(b) alleged that Det. Brandenburg and Det. Obrien approached the vehicle with their guns pointed at both him and § 87(2)(b) (**Allegation A: Force, § 87(2)(g)** **Allegation B: Force, § 87(2)(g)** **Allegation C: Force, § 87(2)(g)** **Allegation D: Force, § 87(2)(g)** **Allegation E: Force, § 87(2)(g)** Det. Lalchan allegedly pulled § 87(2)(b) out of the vehicle, and Det. Obrien allegedly used force to remove § 87(2)(b) from the vehicle (**Allegation F: Force, § 87(2)(g)** **Allegation G: Force, § 87(2)(g)** Det. Lalchan frisked § 87(2)(b) (**Allegation H: Abuse of Authority, § 87(2)(g)** Det. Obrien allegedly frisked and searched § 87(2)(b) (**Allegation I: Abuse of Authority, § 87(2)(g)** **Allegation J: Abuse of Authority, § 87(2)(g)** Det. Lalchan allegedly searched § 87(2)(b) (**Allegation K: Abuse of Authority, § 87(2)(g)** Det. Obrien allegedly frisked and searched § 87(2)(b) (**Allegation L: Abuse of Authority, § 87(2)(g)** **Allegation M: Abuse of Authority, § 87(2)(g)** Det. Lalchan allegedly spoke discourteously to § 87(2)(b) (**Allegation N: Discourtesy, § 87(2)(g)** Det. Obrien allegedly spoke discourteously to § 87(2)(b) and § 87(2)(b) (**Allegation O: Discourtesy, § 87(2)(g)** **Allegation P: Discourtesy, § 87(2)(g)** Det. Lalchan searched the vehicle and recovered marijuana (**Allegation Q: Abuse of Authority, § 87(2)(g)** Det. Brandenburg and Sgt. Mezzatesta also allegedly searched the vehicle (**Allegation R: Abuse of Authority, § 87(2)(g)** **Allegation S: Abuse of Authority, § 87(2)(g)** § 87(2)(b) and § 87(2)(b) were placed under arrest and taken back to the 107th Precinct stationhouse by Det. Brandenburg and Det. Obrien. Once at the 107th Precinct stationhouse, § 87(2)(b) asked Det. Obrien for his name, which he allegedly refused to provide (**Allegation T: Abuse of Authority, § 87(2)(g)** Sgt. Mezzatesta authorized a strip search of § 87(2)(b) and § 87(2)(b) (**Allegation U: Abuse of Authority, § 87(2)(g)** **Allegation V: Abuse of Authority, § 87(2)(g)** § 87(2)(b) asked Det. Obrien and Det. Lalchan for their names, which they both allegedly refused to provide (**Allegation W: Abuse of Authority, § 87(2)(g)** **Allegation X: Abuse of Authority, § 87(2)(g)** Det. Lalchan allegedly spoke discourteously to § 87(2)(b) (**Allegation Y: Discourtesy, § 87(2)(g)** After being released, § 87(2)(b) stated that several parts of the interior of the vehicle were damaged (**Allegation Z: Abuse of Authority, § 87(2)(g)**). Objects inside the vehicle and the trunk had been moved around, and § 87(2)(b) alleged that the vehicle had been searched (**Allegation 2A: Abuse of Authority, § 87(2)(g)**). § 87(2)(b)

§ 87(2)(b)

No video footage was obtained regarding this incident.

Findings and Recommendations

Allegation (A) Force: At 189th Street and 73rd Avenue in Queens, Sergeant Richard Mezzatesta pointed his gun at § 87(2)(b)

Allegation (B) Force: At 189th Street and 73rd Avenue in Queens, Detective Jeremy Brandenburg pointed his gun at § 87(2)(b)

Allegation (C) Force: At 189th Street and 73rd Avenue in Queens, Detective Jeremy Brandenburg pointed his gun at § 87(2)(b)

Allegation (D) Force: At 189th Street and 73rd Avenue in Queens, Detective Michael Obrien pointed his gun at § 87(2)(b)

Allegation (E) Force: At 189th Street and 73rd Avenue in Queens, Detective Michael Obrien pointed his gun at § 87(2)(b)

§ 87(2)(b) stated that he drove to 189th Street and 73rd Avenue with § 87(2)(b) to meet a friend, smoke marijuana, and go to the gym. § 87(2)(b) was in the passenger's seat. After they arrived, § 87(2)(b)'s friend called and told them to wait there because he was not yet in the area. About four to five minutes after stopping the vehicle, two unmarked vehicles turned onto 189th Street, activated their sirens, and stopped behind the § 87(2)(b)'s vehicle. Sgt. Mezzatesta, Det. Brandenburg, Det. Obrien, and Det. Lalchan approached the vehicle, and Det. Obrien and Det. Brandenburg approached with their guns drawn and pointed towards the front of the vehicle, where § 87(2)(b) and his brother were sitting. (Because both brothers were later arrested, no allegations of a stop were pleaded.) § 87(2)(b) did not know whether Sgt. Mezzatesta or Det. Lalchan had their weapons drawn. Once near the vehicle doors, Det. Obrien and Det. Brandenburg holstered their weapons.

§ 87(2)(b)'s statement was similar, with the following exceptions. § 87(2)(b) did not state that they were going to smoke marijuana. § 87(2) § 87(2)(b) stated that all four officers approached the vehicle, and that Det. Brandenburg and Sgt. Mezzatesta approached the passenger's side of the vehicle with their firearms drawn and pointed at him. § 87(2)(b) did not know if Det. Obrien or Det. Lalchan approached the vehicle with their guns drawn. § 87(2)(b) did not specify when Det. Brandenburg and Sgt. Mezzatesta stopped pointing their weapons or holstered them.

Det. Brandenburg was leading a team of the other three officers in an investigation of § 87(2)(b) and § 87(2)(b) § 87(2)(e), § 87(2)(f)

§ 87(2)(b). At approximately 6:00 p.m., Det. Brandenburg received a call from Det. Lalchan that they had the vehicle stopped at the location. Det.

Brandenburg arrived and saw § 87(2)(b) and § 87(2)(b) standing outside the rear of the vehicle with Det. Obrien, while Det. Lalchan was in the front driver's side of the vehicle. Det. Brandenburg denied drawing or pointing his weapon upon approach, and denied seeing anyone else do so or an officer telling him that they did so.

Sgt. Mezzatesta was in a vehicle alone on the date of the incident, and had been surveilling § 87(2)(b). Sgt. Mezzatesta observed § 87(2)(b)'s house, and followed § 87(2)(b) and § 87(2)(b) as they drove towards 189th Street and 73rd Avenue, but lost sight of them due to the speed at which they were driving. Sgt. Mezzatesta called one of the officers on their team to let them know that the § 87(2)(b) brothers were on their way to the location. Sgt. Mezzatesta later got a phone call from an officer saying that they had the § 87(2)(b)'s vehicle stopped at the location. Sgt. Mezzatesta arrived to see § 87(2)(b) and § 87(2)(b) standing at the trunk of the vehicle with Det. Lalchan and Det. Obrien nearby. Sgt. Mezzatesta denied drawing or pointing his weapon at either individual, and denied seeing any other officer do so, or learn that any officer had pointed their guns prior to his arrival.

Det. Obrien stated that he and Det. Lalchan were in a vehicle together, and saw the vehicle they were looking for in regards to Det. Brandenburg's case. The vehicle was double parked next to a hydrant, and Det. Obrien activated the lights in his and Det. Lalchan's vehicle. Det. Obrien approached the driver's side of the vehicle, and Det. Lalchan approached the passenger's side. Det. Obrien denied drawing or pointing his weapon at either individual, and denied that Det. Lalchan did so. Sgt. Mezzatesta and Det. Brandenburg arrived later.

Det. Lalchan's statement was largely consistent with Det. Obrien's. Det. Lalchan denied drawing or pointing his weapon, denied that anyone else pointed their weapon, and did not remember any other officer drawing their weapon.

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Allegation (F) Force: At 189th Street and 73rd Avenue in Queens, Detective Stephen Lalchan used physical force against § 87(2)(b)

Allegation (G) Force: At 189th Street and 73rd Avenue in Queens, Detective Michael Obrien used physical force against § 87(2)(b)

§ 87(2)(b) stated that after Det. Brandenburg and Sgt. Mezzatesta approached the passenger's side of the vehicle with their guns drawn and pointed, one of them asked him to step out of the car. Det. Brandenburg grabbed § 87(2)(b) by the front collar of his jacket and shirt and pulled him out of the vehicle. This did not cause him pain or injuries. § 87(2)(b) did not see how his brother was removed from the vehicle. As discussed above, all the officers consistently stated that Det. Lalchan and Det. Obrien were the first to arrive, and Det. Lalchan and Det. Obrien both said that Det. Lalchan approached the passenger's side and Det. Obrien approached the driver's side. As such, Allegation F was pleaded against Det. Lalchan.

§ 87(2)(b) stated that officers told him to put his hands up and not to move as they approached. After holstering his firearm, Det. Obrien opened the driver's side door, put one hand on § 87(2)(b)'s neck, causing him pain, and one hand on his left arm, and then escorted him to the back of the vehicle. One of the officers grabbed the back of § 87(2)(b)'s neck and took him out of the vehicle in the same manner.

Det. Lalchan stated that he approached the passenger's side of the vehicle and asked the passenger, known to the investigation to be § 87(2)(b) to get out twice. The passenger said, "No," each time, and then eventually got out of the vehicle on his own. Det. Lalchan did not "force" or "grab" him out of the car, and denied making physical contact with the passenger as he got out of the car or using force against either occupant of the car. Det. Lalchan did not remember grabbing the collar of an individual's shirt and the back of their neck, but did not think he did that. Det. Lalchan did not remember any other officer removing an occupant of the car by touching their neck.

Det. Obrien stated that he approached the driver's side and asked the driver, known to the investigation to be § 87(2)(b) for his driver's license, insurance, and registration. § 87(2)(b) said he did not have a license, but provided the other documents. Det. Obrien asked him to step out of the car because he could not determine who § 87(2)(b) was, and the driver complied and got out of the car. Det. Obrien denied touching the driver's neck and denied putting his hands on the driver as he stepped out of the vehicle. Det. Obrien did not recall escorting the driver out of the vehicle by his arm.

As discussed above, Det. Brandenburg and Sgt. Mezzatesta were not present during the initial stop.

§ 87(2)(g)
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§ 87(2)(g)

Allegation (H) Abuse of Authority: At 189th Street and 73rd Avenue in Queens, Detective Stephen Lalchan frisked § 87(2)(b)

§ 87(2)(b) stated that after Det. Lalchan removed him from the vehicle, he guided him to the back of the vehicle. § 87(2)(b) did not allege that he was frisked at this time, though he did say that Det. Obrien frisked him at the back of the vehicle, which is discussed under Allegation L. However, Det. Lalchan stated that he frisked § 87(2)(b) immediately after he exited the vehicle. Therefore, this allegation was pleaded against Det. Lalchan.

Det. Lalchan stated that after § 87(2)(b) stepped out of the vehicle, he patted him down by patting down his legs, waistband, and chest. Det. Lalchan did this to make sure § 87(2)(b) had no weapons. Det. Lalchan said that anyone could have a weapon, and when asked if he thought § 87(2)(b) had a weapon, Det. Lalchan said that he thinks everyone has a weapon. Det. Lalchan said there was nothing specific about § 87(2)(b) that made him think he had a weapon. The DEA Representative, Robert Alonggi, then said, “Besides being that it’s a drug deal?” Det. Lalchan then said that “usually with drugs comes weapons,” so he wanted to make sure there were no weapons. § 87(2)(e), § 87(2)(f)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

There was no information about § 87(2)(b) or § 87(2)(b) that there had been weapons involved previously, Det. Lalchan had not observed bulges in the areas he frisked, nor had he observed § 87(2)(b) make any movements towards the areas he frisked. Det. Lalchan did not feel any hard objects. The vehicle was stopped in regards to Det. Brandenburg’s investigation, Det. Lalchan did not believe that § 87(2)(b) was considered to be under arrest at this point, and § 87(2)(b) was not in handcuffs at the time.

An officer may stop someone when they have reasonable suspicion that the person has committed, is committing, or is about to commit a felony or misdemeanor, and may frisk them if they have a reasonable basis for suspecting that they are armed and may be dangerous (People v. De Bour, 40 N.Y.2d 210 (1976)) (01 Board Review). Information from a CI may provide reasonable suspicion that criminality is afoot, and an officer may act based on information known by a fellow officer (People v. Myrick, 199 A.D.2d 823 (1993)) (02 Board Review). Courts have found that officers lacked reasonable suspicion that a suspect was armed or a threat to their safety based on the absence of evidence that the suspect posed a threat to the officers, even when their suspicion that a suspect was committing a crime was reasonable (People v. Shuler, 98 A.D.3d 695 (2012)) (03 Board Review). When there is no basis to believe that a person is armed or dangerous either in the information received or in what occurs during the officers’ encounter with a defendant, a frisk may not be justified (People v. Russ, 61 N.Y.2d 693 (1984)) (04 Board Review).

Although § 87(2)(b) did not allege that Det. Lalchan frisked him immediately after he exited the vehicle, Det. Lalchan stated that he did so to make sure he did not have a weapon, based on the fact that there are “usually” weapons when drugs are involved, and he thinks that everyone has a weapon. § 87(2)(e), § 87(2)(f)

§ 87(2)(e), § 87(2)(f)

§ 87(2)(g)

Allegation (I) Abuse of Authority: At 189th Street and 73rd Avenue in Queens, Detective Michael Obrien frisked § 87(2)(b)

Allegation (J) Abuse of Authority: At 189th Street and 73rd Avenue in Queens, Detective Michael Obrien searched § 87(2)(b)

Allegation (K) Abuse of Authority: At 189th Street and 73rd Avenue in Queens, Detective Stephen Lalchan searched § 87(2)(b)

Allegation (L) Abuse of Authority: At 189th Street and 73rd Avenue in Queens, Detective Michael Obrien frisked § 87(2)(b)

Allegation (M) Abuse of Authority: At 189th Street and 73rd Avenue in Queens, Detective Michael Obrien searched § 87(2)(b)

§ 87(2)(b) stated that at the back of the vehicle, Det. Obrien and Det. Lalchan asked him and his brother whether they had anything dangerous or illegal on them, and they responded that there was a bag of marijuana in the vehicle (this will be discussed further under Allegations P-R). At this point, Det. Obrien turned § 87(2)(b) around and began to pat down his upper arms, torso, buttocks, and crotch. Det. Obrien searched § 87(2)(b) by entering his pockets, tucking his thumbs under his waistband, pulling his underwear up, and telling him to remove his shoes. Det. Lalchan subsequently took the same actions towards § 87(2)(b) except he did not take his shoes off. Det. Obrien also patted down § 87(2)(b) searched his pockets, and put his hands in his shoes. § 87(2)(b) did not know if Det. Lalchan interacted with § 87(2)(b).

§ 87(2)(b) stated that once at the back of the vehicle, Det. Obrien and Det. Lalchan asked he and his brother questions, and while doing so, Det. Obrien patted down his clothes, entered his pockets, and removed objects. Det. Obrien unbuttoned his jeans and moved his hand along his waistline, shaking his jeans. Det. Obrien pulled up § 87(2)(b)'s underwear and shirt, told him to remove his shoes, and placed his fingers in his socks. § 87(2)(b) did not see what was happening with his brother during this time.

Det. Obrien stated that once he arrived at the back of the vehicle with § 87(2)(b) one of the occupants said something about marijuana, which was recovered, and Sgt. Mezzatesta made the decision to place § 87(2)(b) and his brother under arrest. Det. Obrien initially said that he may have made physical contact with one of the individuals to place them in the van, but did

not recall making any other physical contact with the individuals. Later in the interview, Det. Obrien said he may have patted down § 87(2)(b) and § 87(2)(b) as they were placed in handcuffs, but did not have a specific recollection of doing so. Det. Obrien initially did not recall whether he searched either of the individuals at the scene, then said he “would imagine” that he would have searched them, then denied that he searched the individuals. Det. Obrien did not recall searching anyone’s shoes or socks, or putting his hand in an individual’s pants to shake them out. Det. Obrien did not recall any officers searching anyone at the location.

Det. Lalchan stated that he did not remember entering the pockets of § 87(2)(b) and § 87(2)(b) at the scene, removing items, tucking his thumbs under the waistband of anyone’s pants, pulling their underwear up, shaking anyone’s pants, or lifting their clothing up. Det. Lalchan denied asking anyone to remove their shoes. Det. Lalchan did not remember whether anyone else took these actions at the scene.

Det. Brandenburg stated that after Sgt. Mezzatesta arrived on scene, the brothers were considered to be under arrest, and he frisked one of them before they were placed into the vehicle. As Det. Brandenburg did not remember whether he frisked § 87(2)(b) or § 87(2)(b) and neither alleged that he frisked them, no allegation was pleaded regarding this. Det. Brandenburg did not remember anyone else conducting a further frisk or search of either individual.

Sgt. Mezzatesta said that after he told Det. Lalchan to arrest the brothers for the marijuana and for the driver not having a license, Det. Lalchan and Det. Obrien handcuffed the brothers, frisked them, and searched their back pockets, per procedure.

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation (N) Discourtesy: At 189th Street and 73rd Avenue in Queens, Detective Stephen Lalchan spoke discourteously to § 87(2)(b)

Allegation (O) Discourtesy: At 189th Street and 73rd Avenue in Queens, Detective Michael Obrien spoke discourteously to § 87(2)(b)

Allegation (P) Discourtesy: At 189th Street and 73rd Avenue in Queens, Detective Michael Obrien spoke discourteously to § 87(2)(b)

[REDACTED] stated that while he was being searched, Det. Lalchan and Det. Obrien said things like, “Where the fuck are the drugs?” and called he and his brother “wiseasses.”

§ 87(2)(b) stated that after Det. Obrien frisked and searched him, he told Det. Obrien that although the officers said they were pulled over for a traffic infraction, it seemed like the officers wanted something else. Det. Obrien called § 87(2)(b) a “wiseass.” (Because § 87(2)(b) did not state that Det. Lalchan spoke to him discourteously, no allegation was pleaded regarding § 87(2)(b)’s statement that he did so.)

Det. Obrien denied saying, “Where the fuck are the drugs?” and denied using the word “wiseass” towards § 87(2)(b) and § 87(2)(b). Det. Obrien denied using any profanity while at the incident location, and did not recall any other officer doing so.

§ 87(2)(g) [REDACTED]

Allegation (Q) Abuse of Authority: At 189th Street and 73rd Avenue in Queens, Detective Stephen Lalchan searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

As discussed above, § 87(2)(b) stated that he and his brother told Det. Lalchan and Det. Obrien that there was a bag of marijuana in the vehicle, specifically in the side pocket of the center console. Det. Obrien entered the vehicle and then returned, saying that he had found the marijuana in the center console. (This allegation was pleaded against Det. Lalchan as he stated that he entered and searched the vehicle, while Det. Obrien did not recall doing so.) § 87(2)(b) and his brother were handcuffed and taken to a vehicle by Det. Lalchan and Det. Obrien. § 87(2)(b) saw Det. Brandenburg and Sgt. Mezzatesta enter the vehicle, and saw Det. Brandenburg open the glove compartment.

§ 87(2)(b) said that at some point after the marijuana was mentioned, Det. Brandenburg and Sgt. Mezzatesta entered their vehicle. § 87(2)(b) turned around to see what they were doing, and saw officers open the center console and glove compartment but could not tell who did what. Det. Obrien and Det. Lalchan told § 87(2)(b) to turn around and not to look.

Det. Lalchan stated that at some point after § 87(2)(b) got out of the car, he entered the car to “look around.” Det. Lalchan stuck his head in the car and looked at the “lungeable grabbable” area of the driver’s and passenger’s front seats to make sure there were no weapons,

and to see if there were any narcotics out. Det. Lalchan thought there were narcotics inside the car because it was a narcotics investigation. Det. Lalchan did not remember whether he entered any compartments or the glove compartment specifically. Det. Lalchan knew that marijuana was recovered from inside the vehicle, but did not know who did so. Det. Lalchan did not remember whether he smelled marijuana at the location.

Det. Obrien stated that someone said they had marijuana in the vehicle, but he did not know how this came about because it was “with Det. Lalchan.” Det. Obrien believed that the marijuana was recovered, but did not know where it was recovered from. Det. Obrien did not recall going inside the vehicle, and denied entering the glove compartment. Det. Obrien did not remember whether he smelled marijuana at the location.

Det. Brandenburg stated that when he arrived, Det. Lalchan was inside the front, driver’s side of the vehicle. Det. Brandenburg noted the odor of marijuana, and § 87(2)(b) said multiple times that he had marijuana in the center console of the car. This led Det. Brandenburg to assume that Det. Lalchan was recovering the marijuana and searching the “lungeable” area of the front of the vehicle. Det. Brandenburg could not see what Det. Lalchan was doing inside of the vehicle, but did not see him open any console. Det. Brandenburg and Det. Obrien drove the § 87(2)(b) brothers back to the stationhouse. Det. Brandenburg denied that he or any other officers searched the vehicle further, including its glove compartment, on the scene after the brothers had been taken into his police vehicle.

Sgt. Mezzatesta stated that when he arrived, Det. Lalchan and Det. Obrien were standing with § 87(2)(b) and § 87(2)(b) near the rear of the vehicle, and believed that Det. Lalchan said they had recovered “a little bit” of marijuana. Sgt. Mezzatesta believed the marijuana was recovered from the vehicle, but Det. Lalchan and Det. Obrien did not tell him they had searched the vehicle prior to his arrival. After § 87(2)(b) and § 87(2)(b) were placed under arrest, Sgt. Mezzatesta drove the vehicle back to the stationhouse. Beforehand, he searched the driver’s seat, the area underneath it, near the pedals, steering wheel, visor, and door. Sgt. Mezzatesta denied entering the glove compartment or console, and said that to his knowledge, no one else did so.

Officers can search a vehicle when they have probable cause to believe there is marijuana inside the vehicle, pursuant to the automobile exception to the warrant requirement (People v. Wilcox, 198 A.D.2d 544 (1993)) (05 Board Review).

It is undisputed that § 87(2)(b) and § 87(2)(b) stated that there was marijuana in the vehicle prior to any officer entering or searching the vehicle. § 87(2)(g)

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[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

Allegation (T) Abuse of Authority: At the 107th Precinct stationhouse, Detective Michael Obrien refused to provide his name to § 87(2)(b)

[REDACTED] stated that after being lodged in a cell at the 107th Precinct stationhouse, Det. Brandenburg brought him to another unknown location within the stationhouse. Det. Obrien joined them in the hallway. § 87(2)(b) asked Det. Obrien what his name was, and he said that § 87(2)(b) did not “need to worry about that,” and continued to ask him if he had narcotics. § 87(2)(b) said that later in the incident, Det. Brandenburg provided Det. Obrien and Det. Lalchan’s names when asked. In his interview, § 87(2)(b) identified Det. Obrien as Det. Lalchan, and vice versa.

Det. Obrien stated that once at the stationhouse, he may have lodged § 87(2)(b) and § 87(2)(b) in the cell, but did not have any further interactions with them. Det. Obrien did not recall either § 87(2)(b) or § 87(2)(b) asking for his name, denied refusing to provide his name, and did not recall giving either civilian his name.

Det. Brandenburg never observed or recalled any officer ignoring a civilian’s request for their name, though he did recall writing down the names of the other officers for the § 87(2)(b) brothers.

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation (U) Abuse of Authority: At the 107th Precinct stationhouse, Sergeant Richard Mezzatesta authorized a strip search of § 87(2)(b)

Allegation (V) Abuse of Authority: At the 107th Precinct stationhouse, Sergeant Richard Mezzatesta authorized a strip search of § 87(2)(b)

§ 87(2)(b) stated that after Det. Obrien refused to provide his name and question him about narcotics, Det. Obrien and Det. Brandenburg took him to an area with individual holding cells, each of which were empty. § 87(2)(a) CVR § 50-b

The search lasted approximately three minute. Nothing was recovered.

§ 87(2)(b) stated that Det. Lalchan and Det. Brandenburg escorted him to a cell area within the stationhouse, and Det. Lalchan told him to remove all of his clothes. § 87(2)(e), § 87(2)(f)

cell.

Sgt. Mezzatesta stated that § 87(2)(b) and § 87(2)(b) were searched at the stationhouse and no narcotics were recovered. § 87(2)(e), § 87(2)(f)

§ 87(2)(e), § 87(2)(f)

§ 87(2)(a) CVR § 50-b

Patrol Guide procedure 208-05 states that a strip search may only be conducted when the arresting officer has articulated a reasonable suspicion that the individual is concealing evidence, weapons, or contraband, and the supervisor has approved the request. This Patrol Guide procedure also states that a strip search may not be conducted routinely in connection with an arrest. A police officer must have reasonable suspicion that the arrestee is concealing evidence underneath his clothing in order to conduct a strip search, and the reasonable suspicion must be based on particular, individualized facts that a person has secreted contraband beneath his or her clothes or in a body cavity (06 Board Review). Courts have found that officers lacked reasonable

suspicion necessary to conduct a strip search when their basis for believing that narcotics were concealed in a person's body is that drug dealers sometimes conceal drugs there, the officer did not observe the person engage in prior drug transactions, and when the officer did not observe the person reach inside their pants, fidget, or adjust their clothing in any way (People v. Hall, 10 N.Y.3d 303 (2008)) (13 Board Review).

§ 87(2)(e), § 87(2)(f), § 87(2)(g)

Allegation (W) Abuse of Authority: At the 107th Precinct stationhouse, Detective Michael Obrien refused to provide his name to § 87(2)(b)

Allegation (X) Abuse of Authority: At the 107th Precinct stationhouse, Detective Stephen Lalchan refused to provide his name to § 87(2)(b)

§ 87(2)(b) stated that after he returned to the holding cell, he asked both Det. Lalchan and Det. Obrien for their names, and both responded, "By the time you get out of here, you will know our names." When he was released, he asked Det. Brandenburg for Det. Lalchan and Det. Obrien's names, and Det. Brandenburg provided them but would not spell them when asked. § 87(2)(b) identified Det. Obrien as Det. Lalchan and vice versa.

As discussed above, Det. Obrien did not recall either § 87(2)(b) or § 87(2)(b) asking for his name, denied refusing to provide his name, and did not recall giving either civilian his name. Det. Obrien did not witness anyone else provide their name to a civilian.

Det. Lalchan stated that either § 87(2)(b) or § 87(2)(b) asked for his name while they were in the street. Det. Lalchan provided his name, but also said he would provide his name at the command, which he did. Det. Lalchan denied refusing to provide his name. Det. Lalchan did not remember whether anyone asked for his partners' information, and did not remember whether anyone else refused to provide their name. Det. Lalchan did not remember whether he observed any other officers provide their information verbally.

As discussed above, Det. Brandenburg never observed or recalled any officer ignoring a civilian's request for their name, though he did recall writing down the names of the other officers for the § 87(2)(b) brothers.

§ 87(2)(b) stated that he asked both Det. Obrien and Det. Lalchan for their names at the stationhouse, and both refused to provide them. § 87(2)(g)

Allegation (Y) Discourtesy: At the 107th Precinct stationhouse, Detective Stephen Lalchan spoke discourteously to § 87(2)(b)

§ 87(2)(b) stated that after he asked Det. Obrien and Det. Lalchan for their names and they refused to provide them, Det. Lalchan commented that § 87(2)(b) did not look like the kind of person who would have nice clothing or drive a nice car, which § 87(2)(b) took to mean that he looked too young to be wealthy. § 87(2)(b) replied, “Listen, when you work hard and focus on yourself and not others, that’s what you can make happen.” Det. Lalchan said, “You’re a wiseass, aren’t you?”

Det. Lalchan stated that after he conducted the strip search of one brother, he did not have any further contact with either of them. Det. Lalchan denied saying, “You’re a wiseass, aren’t you?” to § 87(2)(b) and denied using any profanity towards him.

§ 87(2)(g)

Allegation (Z) Abuse of Authority: At the 107th Precinct stationhouse, an officer damaged § 87(2)(b) and § 87(2)(b) s property.

Allegation (2A) Abuse of Authority: At the 107th Precinct stationhouse, an officer searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

§ 87(2)(b) stated that after he was released and retrieved the vehicle, he saw that the trunk had been searched as objects had been moved around. Additionally, multiple buttons on the dashboard were removed from their sockets, and something had been done to the CD player so that it did not open and close correctly.

All of the officers denied damaging the vehicle or specifically the CD player or any buttons near the stereo. Sgt. Mezzatesta denied that the area surrounding the stereo was searched. Det. Brandenburg, Det. Lalchan, and Det. Obrien denied searching the vehicle in the stationhouse or learning that a vehicle search was conducted.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (08 Board Review)
- § 87(2)(b)
- Det. Brandenburg has been a member-of-service for 10 years and this is the first CCRB complaint to which he has been a subject.
- Det. Obrien has been a member-of-service for 10 years and has been a subject in two CCRB complaints and two allegations, none of which were substantiated. § 87(2)(g)
- Sgt. Mezzatesta has been a member-of-service for 16 years and has been a subject in four CCB complaints and five allegations, none of which were substantiated. Sgt. § 87(2)(g)
- Det. Lalchan's CCRB history does not reflect any patterns pertinent to this investigation. However, Det. Lalchan has been a member-of-service for ten years and has been a subject in eight CCRB complaints and 17 allegations, of which four were substantiated:
 - 201403703 involved substantiated allegations of refusal to provide name and shield number and question against Det. Lalchan. The Board recommended charges, the Administrative Prosecution Unit's disposition was not guilty, and no penalty was imposed.
 - 201409570 involved substantiated allegations of a vehicle search and a stop against Det. Lalchan. The Board recommended Command Discipline A, which was imposed for the vehicle search. The NYPD did not impose any discipline for the stop.

Mediation, Civil and Criminal Histories

- § 87(2)(b) and § 87(2)(b) declined to mediate this complaint.
- § 87(2)(b); §§ 86(1)(3)(4); § 87(2)(c)
- On December 21, 2018, a request was sent to the New York City Office of the Comptroller to determine whether a Notice of Claim was filed in regards to this complaint (12 Board Review). The results will be added to the case file upon receipt.

Squad No.: 3

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date